

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

LEEANNE WALTERS, et al.

Plaintiffs,

v.

Civil Action No. 5:17-cv-10164

HON. Judith E. Levy

THE CITY OF FLINT,
a Michigan municipal corporation, et al.

Defendant.

MOTION AND CONSOLIDATED BRIEF FOR LEAVE TO FILE LIMITED
APPEARANCE OF COUNSEL ON BEHALF OF NONPARTY
SUBPOENAED WITNESS
VALERIE BRADER

NOW COMES James C. Thomas, of James C. Thomas, P.C., and pursuant to, EDM Local Rule 83.25, hereby files this Motion for Leave to File Limited Appearance of Counsel on Behalf of Nonparty Subpoenaed Witness, Valerie Brader, and in support thereof states as follows:

1. This Motion relates to the appearance of counsel for witness, Valerie Brader, who has been subpoenaed to appear for testimony at trial in the above-captioned matter.

2. That on or about February 10, 2022, a Subpoena to Appear and testify at the trial was prepared and received by Valerie Brader (Subpoena attached as **Exhibit**

A). Personal service has been waived. The trial was scheduled to begin on February 15, 2022 at 8:30 a.m. Counsel waives any irregularities in the Subpoena, having noted the case number in the attached Subpoena is represented to be incorrect.

3. That Valerie Brader is not a party to this matter. She agrees to appear when directed and is in the process of determining the appropriate time and date.

3. Ms. Brader has a legal right to have counsel present with her at the time of her testimony. There are unresolved issues relating to Fifth and Sixth Amendment privileges. Counsel is aware from his review of the docket that memorandum letters have been exchanged between the plaintiffs, the defendants, and this Honorable Court regarding the issue of Fifth Amendment privileges, the assertion of Fifth Amendment before the jury, waiver of privileges, and blanket waiver.

4. While it is not presently contemplated that Ms. Brader will assert Fifth Amendment privileges, the possibility of a question being asked may trigger that assertion. On the other hand, Ms. Brader is an attorney licensed in the State of Michigan to practice law and has represented some of the defendants and witnesses in this case. It is likely that questions may be asked that would require the assertion of the Sixth Amendment right on the part of her client(s).

5. This Honorable Court is going to be asked to rule on a procedure for the assertion of rights under the Fifth and Sixth Amendments. Counsel requests the

ability not only to enter an appearance but also be timely informed of relevant matters, so that he can advise the Court of his client's position. Hopefully, this would lend to a more orderly presentation of evidence and save the Court's valuable time.

6. Pursuant to Local Rule 7.1, counsel requested concurrence of the relief requested in this Motion by email correspondence to Alaina Devine on March 3, 2022. Ms. Devine responded on March 4, 2022 that they have no objection to this request.

WHEREFORE, undersigned counsel, James C. Thomas, of James C. Thomas, P.C., prays that this Honorable Court grant him Leave to File a Limited Appearance on Behalf of Nonparty Subpoenaed Witness, Valerie Brader as it relates the Subpoena of February 10, 2022.

Respectfully submitted,

JAMES C. THOMAS P.C.

By: /s/ James C. Thomas

James C. Thomas (P23801)
Attorney for Valerie Brader
12900 Hall Road, Suite 350
Sterling Heights, MI 48313
586-726-1000

Dated: March 4, 2022

CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2022, the foregoing was electronically filed with the Clerk of the Court using the ECF system, which served notice of the filing upon all interested parties of record.

/s/ James C. Thomas

James C. Thomas (P23801)

James C. Thomas

EXHIBIT A

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

In Re Flint Water Cases)

Plaintiff)

v.)

Gov. Richard Snyder, et al.)

Defendant)

Civil Action No. 5:16-CV-10444

SUBPOENA TO APPEAR AND TESTIFY
AT A HEARING OR TRIAL IN A CIVIL ACTION

To: Valerie Brader

(Name of person to whom this subpoena is directed)

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: U.S. District Court Federal Building, 200 E. Liberty St., Ann Arbor, Michigan 48104	Courtroom No.: 100 Date and Time: February 15, 2022 at 9:00 a.m.
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You must also bring with you the following documents, electronically stored information, or objects (*leave blank if not applicable*):

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: February 10, 2022

KINIKIA D. ESSLY, CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk_____
Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (*name of party*)
Veolia North America Defendants, who issues or requests this subpoena, are:

Alaina N. Devine, Esq., Campbell, Conroy & O'Neil, P.C., One Constitution Wharf, Suite 310, Boston, MA 02129
(617) 241-3037

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).